

DISCLAIMER

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JOINT APPLICATION OF

**GROUNDHOG MTN. PROPERTY
OWNERS, INC.**

and

CASE NO. PUE990814

**GROUNDHOG MTN. WATER &
SEWER COMPANY, INC.**

**For authority to acquire and to dispose of
Utility assets pursuant to the Transfers Act
and for certificates of public convenience and
necessity pursuant to §§ 56-265.2 and 56-265.3**

HEARING EXAMINER'S RULING

May 8, 2001

On May 1, 2001, Doe Run Properties, LLC ("DRP") and The Doe Run at Groundhog Mountain, Inc. ("DRGM") (collectively, the "Protestants"), by counsel, filed a motion requesting reconsideration of the Ruling dated April 18, 2001, granting the Applicants' motion to relocate the scheduled hearing for July 17, 2001, from Richmond to Roanoke.

In support of their motion, DRP stated it is a customer and an owner of major assets currently being utilized by Groundhog Mountain Property Owners, Inc. ("GMPO") and Groundhog Mountain Water and Sewer Company, Inc. ("GMW&S") (collectively, the "Applicants"). DRGM stated it is a customer of GMPO and GMW&S, a tenant of DRP, and a current co-operator of the utilities. The Protestants argue that relocating the location of the hearing will impose a financial hardship, added and unnecessary costs, and inconvenience to the Protestants, potential witnesses of the Protestants, its counsel, as well as the Commission. The Protestants believe the Application is fatally defective, and they contend they will incur significantly less expenses defending their rights if the hearing were held in Richmond.

On May 4, 2001, the Applicants filed a Response to Motion for Reconsideration. In their Response, the Applicants observed the Protestants' Comments, Objections and Request for a Hearing were signed by an individual who is not a member of the Virginia State Bar. The Applicants stated no other person requested a hearing in this matter. The Applicants further stated that GMPO is a nonprofit property owners association that has one part-time employee, and GMW&S is a newly formed corporation that has no cash assets, no income, and no employees. The Protestants, on the other hand, are the owners and operators of a commercial complex on Groundhog Mountain. The Applicants

argue that a public hearing places an economic burden on all parties, and in this instance, it is an unexpected financial hardship for the Applicants, and one the Applicants are less able to bear than the Protestants.

The Applicants further stated that they have already completed, or are in the process of completing, the public notice requirements set forth in the Commission's order scheduling the hearing. They argue that moving the hearing back to Richmond would cause considerable public confusion as to the location of the hearing, and cause the Applicants to incur additional expenses.

Finally, the Applicants argued that the majority of the witnesses or interveners would be coming from the Groundhog Mountain area, and driving to Richmond would be less convenient than driving to Roanoke. The Applicants argue that the public interest would be served by having the hearing in Roanoke. They argue persons desiring to participate in the process and make a statement at the hearing are more likely to drive to Roanoke, than drive to Richmond.

After considering the Motion for Reconsideration and the Response thereto, I find that the Ruling entered herein April 18, 2001, should be and it is hereby, affirmed. The purpose for a local hearing is to provide the customers of a public utility a meaningful opportunity to appear before the Commission and be heard. The geographic remoteness of Groundhog Mountain, which for some may be a blessing and for others a curse, makes the Roanoke hearing location preferable to Richmond. The customers of GMW&S only have to drive 80 miles to Roanoke, as opposed to 240 miles to Richmond, a 1 ½ hour drive versus a 4 ½ hour drive. The shorter the drive the more likely they are to participate in the hearing.¹ Apparently, there is only one witness who may not reside in the Groundhog Mountain area and it is just as easy, and less expensive, for that witness to fly from Lake Forest, Illinois, to Roanoke for the hearing, as it is to fly to Richmond.²

Michael D. Thomas
Hearing Examiner

¹None of the parties requested that the hearing be held in the Circuit Court of Carroll County, Hillsville, Virginia, which, I understand, is located only 12 or 15 miles from GMW&S.

²An airline ticket from Chicago, Illinois to Roanoke, Virginia may be purchased for as little as \$191.00. The same ticket to Richmond, Virginia would cost approximately \$570.00.